

IN THE UNITED STATES COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	NO. 08-066
	:	
VS.	:	
	:	
William King, MD.	:	
	:	

ORDER

And now this      day of                      , 2008, upon consideration of Defendant's motion for dismissal of indictment and the Government's response thereto, IT IS ORDERED AND DECREED that, the Defendants motion is Granted.

BY THE COURT:

Honorable Robert F. Kelly

IN THE UNITED STATES COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL ACTION  
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VS.

William King, MD.

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MOTION TO DISMISS INDICTMENT AND/ OR COUNTS

Defendant, by and through his Counsels, hereby moves this Court files the instant Motion to Dismiss the Indictment, and avers the following:

1. The Defendant in the above captioned matter is William King.
2. The Defendant is a licensed medical Doctor.
3. The United States Government has alleged that he has committed certain acts as alleged in its indictment.
4. The indictment was filed on February 5, 2008.
5. The Government has alleged that Dr. King engaged in a scheme to defraud the Blue Cross and Blue Shield from October 1999 through January 2004.
6. The Government has averred that in Counts 20, 24, 25, 74-83, Dr. King engaged in conduct on or before February 5, 2003.
7. The above stated counts should be dismissed.
8. Said counts are outside the statute of limitations pursuant to 18 USC § 1382(a).
9. The time barred counts are irrelevant to the actual counts in the

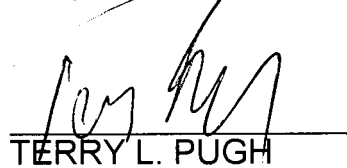
indictment, and will serve the sole purpose of unfairly prejudicing the jury against the defendant, and will not in any way assist the jury in determining whether Dr. King practiced upcoding or fraud.

10. Such language is surplusage .

11. The Government has failed to setforth the elements for the alleged charges in its indictment.

Wherefore, the Defendant William King, respectfully request that this Honorable Court grant his motion to dismiss the indictment or the appropriate counts listed above.

Respectfully submitted,



TERRY L. PUGH

**FILED**

OCT 03 2008

~~FILED OCT 03 2008~~**MEMORANDUM OF LAW****Summary of Argument****MICHAEL E. KUNZ, Clerk**  
**By \_\_\_\_\_ Dep. Clerk**

Dr. King has been charged in the instant indictment with committing fraud from 1999 through January 2004. The charges in Counts 20, 24, 25, 74-83 should be dismissed. The above counts are outside the statute of limitations. There is a general 5 year statute of limitations under 18 USC §1382(a). USA v. Harriet Comite, M.D., (2006 WL 3360282).

Further, the time barred allegations in the indictment are immaterial and highly prejudicial surplusage. Federal Rules of Criminal procedure 7(d) provides that, "upon the defendant's motion, the Court may strike surplusage from the indictment or information. Such language is highly prejudicial to the Defendant. FRCP 7(d).

The Government has failed to alleged the essential elements of the offense charged under 18 USC § 1347. Thus, the Defendant moves to dismiss the indictment or parts thereof pursuant to FRCP 7(c)(1) and FRCP 12(b)(3). The Supreme Court has clearly stated that the indictment must clearly setforth the elements of the charges which have been alleged.

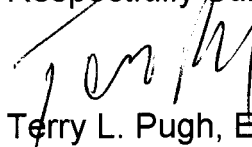
In the instant matter, the Government has failed to setforth the alleged fraud amounts with specificity. They have simple generally averred to an amount as alleged in count number 25 of the indictment. This is insufficient. Therefore, this indictment should be dismissed or in the alternative, every count that fails to setforth with specificity the alleged amounts of the fraud should be dismissed.

**Conclusion**

Wherefore, we respectfully request that all counts barred by the statute of limitations be dismissed and such other counts dismissed which fail to setforth allegations which meet the elements of the charges.

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Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Terry L. Pugh', written over the printed name.

Terry L. Pugh, Esquire

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MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

CERTIFICATE OF SERVICE

I, TERRY L. PUGH, ESQUIRE, Attorney for William King, MD, certify that a copy of the attached Motion(s) was served on the following person on October 3, 2008 by hand delivery mail:

Bea Witzleben, Esquire  
United States Attorney  
615 Chestnut Street  
Suite 1250  
Philadelphia, PA 19106

Honorable Robert F. Kelly  
Senior Judge, United States District Court  
11613 United States Courthouse  
601 Market Street  
Philadelphia, Pa 19106-1765

  
TERRY L. PUGH, ESQUIRE  
Attorney for Defendant